

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	
Ramabadran S. Raghavan et al.	§	Group Art Unit: 2617
	§	
Application No.: 10/628,660	§	Examiner: Ajibade Akonai, Olumide
	§	
Filed: July 28, 2003	§	Confirmation No.: 4409
	§	
For: INTERNET DISTRIBUTED	§	Atty. Docket: LUCW:0003/FLE/DOO
ACCESS NETWORK	§	Kansal 2-6
ARCHITECTURE	§	

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December 7, 2010

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/Matthew C. Dooley/

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

In response to the Final Office Action mailed September 7, 2010 and the Advisory Action mailed November 30, 2010, Appellants respectfully submit this Pre-Appeal Brief Request for Review. This Request is being filed concurrently with a Notice of Appeal.

In the Final Office Action, the Examiner rejected pending claims 1-22, 24, and 25 under 35 U.S.C. § 102 and 103. Of these, claims 1, 17, and 20 are independent. In the Advisory Action, the Examiner essentially reiterated the art rejections formulated in the Final Office Action. Because Appellants believe that the rejections are improper, the present Appeal has been filed.

Claim Rejections under 35 U.S.C. § 102

In the Final Office Action, the Examiner rejected claims 17-19 under 35 U.S.C. § 102(e) as anticipated by Scheinert et al., U.S. Patent No. 7,117,015 (hereinafter “Scheinert”). Appellants respectfully traverse this rejection.

Omitted Features of Independent Claim 17

Scheinert fails to anticipate all elements of independent claim 17. Independent claim 17 recites, *inter alia*, “at least one routine for facilitating communication of information over an undedicated public network between at least one base station, which is adapted to communicate over an air interface with portable communications devices, and a controller.” (Emphasis added.) Appellants respectfully traverse this rejection.

In the Final Office Action, the Examiner read an internet base station (IBS) 42 of Scheinert as analogous to the at least one base station recited in independent claim 17. *See* Final Office Action, page 4. Moreover, the Examiner suggested that the IBS 42 of Scheinert facilitated communication of information over the internet 47, read to be the undedicated public network recited in independent claim 17. Appellants respectfully disagree with this reading of Scheinert.

Scheinert specifically discloses the use of at least one base station 22 separate from the at least one IBS 42. *See* Scheinert, FIG. 5. Moreover, this base station 22 is disclosed to connect to a base station controller 26 via a dedicated line 25. *See* Scheinert, FIG. 5, col. 5, lines 4. Indeed, Scheinert specifically discloses that the IBS 42 is not a conventional base station (e.g. base station 22) that relies on dedicated connections to connect to the public switched telephone network, but rather supplements the disclosed base station 22. *See* Scheinert, col. 5, lines 1-13. That is, Scheinert specifically discloses a base station 22 as a separate and distinct element from an IBS 42.

Appellants note that M.P.E.P. Section 2141.02 states that “[a] prior art reference must be considered in its entirety, i.e., as a whole.” (Emphasis original.) Thus, the Examiner is not free to read a portion of a reference in a manner that contradicts other portions of the reference. For example, the Examiner is not free to read an IBS 42 to be a base station when Scheinert clearly and explicitly discloses a separate element to be a base station 22. To do so is to fail to consider Scheinert in its entirety, as set forth in M.P.E.P. Section 2141.02, as Scheinert read as a whole (i.e., in its entirety) teaches away from the interpretation made by the Examiner that an IBS 42 may be read as a base station since Scheinert specifically discloses a base station 22. As such, the IBS 42 of Scheinert cannot be read as the base station recited in independent claim 17.

Moreover, while the base station 22 of Scheinert may be interpreted to be analogous to the base station recited in independent claim 17, each of the plurality of base stations 22 of Scheinert are connected to a base station controller 26 via a dedicated line (see Scheinert, FIGS. 2 and 5; col. 2, lines 5-9 and 17-19). Thus, Scheinert cannot be read as disclosing facilitating communication between a base station and a controller “over an undedicated public network,” as recited in independent claim 17 since a connection that facilitates communication over a dedicated line cannot be read as a connection that facilitates communication over an undedicated public network. Therefore, Scheinert cannot be read as disclosing all elements of independent claim 17 and, accordingly, Scheinert cannot anticipate independent claim 17 under Section 102. Accordingly, Appellants respectfully request the Panel direct the Examiner to withdraw the rejection of independent claim 17 and to allow the same, as well as all claims depending therefrom.

Claim Rejections under 35 U.S.C. § 103(a)

In the Final Office Action, the Examiner rejected claims 1-5, 8-12, 15, 20-22, 24, and 25 under 35 U.S.C. § 103(a) as unpatentable over Scheinert in view of Hameleers et

al., U.S. Patent No. 6,760,325 (hereinafter “Hameleers”). Appellants respectfully traverse this rejection.

Omitted Features of Independent Claims 1 and 20

Scheinert in view of Hameleers fails to teach all elements of independent claims 1 and 20. Independent claim 1 recites, *inter alia*, “a communication interface, coupled to the antenna, and configured to facilitate communication between the base station and an access network unit over an undedicated public network, wherein the communication between the base station and the access network unit is independent of a dedicated connection.” (Emphasis added.) Similarly, independent claim 20 recites, *inter alia*, “transmitting the information packet from the base station to the access network unit independent of a dedicated connection.” (Emphasis added.)

In the Final Office Action, the Examiner admitted that Scheinert fails to teach communication between a base station and a access network unit “independent of a dedicated connection,” as recited in independent claim 1 and fails to teach transmitting an information packet from a base station to a access network unit “independent of a dedicated connection,” as recited in independent claim 20. *See* Final Office Action, pages 6 and 7. To obviate these deficiencies, the Examiner relied upon Hameleers. *See id.* Appellants have reviewed the cited portions of Hameleers and are unable to find any teaching in Hameleers of communication between the base station and the access network unit “independent of a dedicated connection,” as recited in independent claim 1 or transmitting an information packet from the base station to the access network unit “independent of a dedicated connection,” as recited in independent claim 20. For example, Hameleers appears to teach a base station controller 14 and a base transceiver station 8 that may communicate along a device protocol connection 13. *See* Hameleers, FIG. 1; col. 4, lines 1-8 and col. 6, lines 14-17 and 28-33. However, Hameleers fails to teach that the device protocol connection 13 between the base station controller 14 and a base transceiver station 8 is not a dedicated connection. That is, the device protocol

connection 13 appears to be a dedicated connection that is dedicated to device control protocol transmitted between a particular base station controller (i.e., base station controller 14) and a particular base transceiver station (i.e., base transceiver station 8). As the device protocol connection 13 appears to be a dedicated connection, Hameleers cannot be read as teaching communication between the base station and the access network unit “independent of a dedicated connection,” as recited in independent claim 1. Similarly, Hameleers cannot be read as teaching transmitting an information packet from the base station to the access network unit “independent of a dedicated connection,” as recited in independent claim 20.

Therefore, Appellants respectfully submit, for at least the reasons set forth above, Hameleers fails to overcome the admitted deficiencies of Scheinert with respect to independent claims 1 and 20. As such, Scheinert, in view of Hameleers, cannot render independent claims 1 and 20 obvious under Section 103. Accordingly, Appellants respectfully request that the Panel direct the Examiner to withdraw the rejection of independent claims 1 and 20 and to allow the same, as well as all claims depending therefrom.

Conclusion

If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: December 7, 2010

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